is to control, and the payment be applied to the most burdensome debt. *Clark* v. *Boarman*, 89 Md. 428, 43 Atl. 926. Thus, a debt bearing compound interest is to be satisfied, rather than one bearing simple interest. *Murdock* v. *Clarke*, 88 Cal. 384, 26 Pac. 601. Or debts secured by a judgment lien rather than unsecured debts. *Frazier* v. *Lanahan*, 71 Md. 131, 17 Atl. 940, 17 Am. St. Rep. 516. The common law, however, gives controlling force to the presumed intention of the creditor. Thus, the payment will be applied to the debt secured by the more precarious and less valuable security. *Pardee* v. *Markle*, 111 Penn. St. 548, 5 Atl. 36, 56 Am. Rep. 299. It would seem that the rules of the civil law are the more equitable, and deserve a wider application.

UNFAIR COMPETITION—SIMILAR NAMES—TITLE TO MOTION PICTURE PLAY. —The plaintiff wrote and produced a play called "The Come-Back." Later the defendant produced a photo play of the same name, but with entirely different plot and scenery. Claiming that the use of the same name constituted unfair competition, the plaintiff sued to enjoin the defendant from calling his photo play "The Come-Back." *Held*, the plaintiff is entitled to an injunction. *Dickey* v. *Mutual Film Corp. et al.*, 160 N. Y. Supp. 609.

The fundamental principles underlying the whole doctrine of unfair competition are that one person will not be allowed to palm off his goods on the public as those of another, and that everyone is entitled to the fruits of his own industry. *Dennison Mfg. Co.* v. *Thomas Mfg. Co.*, 94 Fed. 651; *Cady* v. *Schultz*, 19 R. I. 193, 32 Atl. 915, 29 L. R. A. 524, 61 Am. St. Rep. 763. A person cannot adopt as a trade mark or trade name a descriptive term; for such a term is equally applicable to all goods of that kind. *Bolander* v. *Peterson*, 136 Ill. 215, 26 N. E. 603, 11 L. R. A. 350; *Eggers* v. *Hink*, 63 Cal. 445, 49 Am. Rep. 96. And for the same reason, it seems that such a term ought not to be protected under the doctrine of unfair competition. *Travelers Ins. Machine Co.* v. *Travelers Ins. Co.*, 142 Ky. 523, 134 S. W. 877. And see *Canal Co.* v. *Clark*, 13 Wall. (U. S.) 311; *National, etc., Co.* v. *Munn's, etc., Co.*, (1894) A. C. 275. But if one uses a fancifal name to designate his product, or a descriptive name which has acquired a secondary meaning denoting the origin of the goods to which it is applied, he is entitled to the exclusive use of the name, at least as applied to goods of the same kind, in order that the public may not be deceived. *Reddaway* v. *Banham*, (1896) A. C. 199. See *Elgin Nat. Watch Co.* v. *Illinois Watch Co.*, 179 U. S. 665. Hence, one may acquire the exclusive right to use a geographical name or be prohibited from using his own name. *Dyment* v. *Lewis*, 144 Iowa 509, 123 N. W. 244, 26 L. R. A. (N. S.) 73; *Bissell, etc., Works* v. *Bissell Co.*, 121 Fed. 357. And when, after the expiration of a patent or copyright, the name used by the original manufacturer becomes public property, others using the same name to designate like articles must differentiate them from his in some way. *Merriam Co.* v. *Ogilvie* (C. C. A.), 159 Fed. 638, 16 L. R. A. (N. S.) 549; *Hill Mfg. Co.* v. *Sawyer-Bass Mfg. Co.*, 112 Fed. 144. In all cases where the name denotes the origin of the goods, it is entitled to protection against

names so similar to it as to deceive the public, even in the absence of fraud. *Munn* v. *Americana Co.* (N. J.), 88 Atl. 330; *Ball* v. *Best,* 135 Fed. 434; *North Cheshire, etc., Brewery Co.* v. *Manchester Brewery Co.,* (1899) A. C. 83; 6 POMEROY, EQ. JUR., § 578.

The doctrine of unfair competition is extended no further than the reasons for it demand. Hence, where the goods are so dissimilar in character as not to compete with each other, they may be called by the same name. *Atlas Mfg. Co.* v. *Smith,* 122 C. C. A. 568, 204 Fed. 398, 47 L. R. A. (N. S.), 1020; *Borden Ice Cream Co.* v. *Borden's Condensed Milk Co.,* 201 Fed. 510. But it would seem, though the weight of authority is probably against it, that even if the goods are not alike but of the same general character the rule should apply; for otherwise, the public would be led to believe the same person manufactured both, and thus one's reputation would be injured. See *Eno* v. *Dunn,* L. R. 15 A. C. 252; *Omega Oil Co.* v. *Weschler,* 35 Misc. 441, 71 N. Y. Supp. 983. But see *Virginia Baking Co.* v. *Southern Biscuit Works,* 111 Va. 227, 68 S. E. 261, 30 L. R. A. (N. S.) 167. If the different articles are confined to restricted areas so that competition is prevented by their geographical situation, they may be designated by the same name, although exactly alike. *Invester Pub. Co.* v. *Dobinson,* 82 Fed. 56; *Hazleton Boiler Co.* v. *Hazleton Tripod Boiler Co.,* 142 Ill. 494, 30 N. E. 339.

The decision in the principal case seems sound; for the two plays are products that would compete, and both are called by the same name—a fanciful one denoting their character. And since it is the object of the rule to enforce fairness in business, it should be liberally construed in favor of the party injured. *Bass* v. *Feigenspan,* 96 Fed. 206.